

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Creation of a Low Power Radio Service	)	MM Docket No. 99-25
	)	
Amendment of Service and Eligibility Rules for	)	MB Docket No. 07-172
FM Broadcast Translator Stations	)	RM-11338
	)	

**COMMENTS**

I, Alan W. Jurison am personally filing these comments in response to the Third Notice of Proposed Rulemaking in this matter, released July 12, 2011.

**Professional Background**

I have been involved in the technical aspect of the broadcast industry for over seventeen years. I have prepared or helped prepare engineering applications before the Commission for the purposes of updating and upgrading both FM and AM broadcast stations in the Northeast. In addition to the preparation of applications, I have physically installed, upgraded and/or maintained broadcast facilities and related systems. I have participated in this<sup>1</sup> and other rulemaking proceedings with the Commission.

I am a long standing member of the Society of Broadcast Engineers (SBE) and hold several certifications from that organization, including Certified Senior Broadcast Radio Engineer (CSRE) with Certified AM Directional Specialist (AMD) and Certified Digital Radio Broadcast (DRB) credentials.

**Market by Market Analysis**

I applaud the Commission's approach to use a "market by market" analysis and licensing approach as it pertains to dealing with the backlog of frozen translator applications. I think this is a prudent approach from a "nationwide" perspective. However, I have some concerns that perhaps some of the methodology used in the market analysis may not be fully accurate, or have other flaws. While I personally do not have the time or resources to research the details of all 155 markets in Appendix A of the *Third Further Notice*, I did find some issues that should be brought to light as it relates to the Syracuse, NY analysis performed by the Commission.

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<sup>1</sup> See Comments of Alan W. Jurison MM Docket No 99-25 (July 19, 1999) and Petitions for Reconsideration (February 19, 2000 and October 20, 2000)

Syracuse is the market that I reside in, and I have practiced my seventeen year broadcasting career in this market. I am intimately familiar with the FM allocations and licenses in operation in this market.

### **Syracuse, NY Market Analysis**

In Appendix A of the *Third Further Notice*, the Commission notes that there are only 2 total FM licensed translators in service in the Syracuse, NY Metro (Arbitron rank #85). This number is not accurate by a very wide margin. While I have not performed a complete analysis, a cursory analysis using a 35 mile (56 km) radius on the FCC's own FM Query search shows there are at least 19 translators in operation in this area<sup>2</sup>. **See Exhibit A.** Further, my analysis, nor does the Commission's analysis does not completely cover the three-county Arbitron Metro of Onondaga, Oswego and Madison counties.

I am not sure why the FCC's analysis only shows 2 licensed FM translators, when there are substantially more. I think this could potentially and dramatically change the Commission's decision to "Process all FX". The Commission's analysis shows there are 16 pending FX applications that are frozen. My analysis shows 22 applications are pending.

Given the fact that there are over 19 translators already licensed in the Syracuse Metro, and there are 22 pending applications, if all translator applications were processed, this would leave the Syracuse Metro with a possible total of 41 translators<sup>3</sup>. I believe that the Commission's analysis of their being 10 LPFM locations on 9 channels is rather lofty, I do not believe there will be that many channels available for LPFM purposes if all of the translator applications are processed. The translator and LPFM spectrum in this market has always been extremely saturated. There is not a lot of room for new growth. Further, even if there were LPFM allocations that could be found under the new rules, I do not believe the locations available would be very well-suited for LPFM operations. The translators that have pending applications have likely taken most, if not all of the available channels in desired, populated areas. The few LPFM channels that might be available would likely be in the rural portions of the metro, perhaps even in uninhabited places such as some of the swampland or the various lakes in the area (Onondaga, Oneida, Skaneateles, Ontario, Otisco, Neatahwanta, Cazenovia, etc). I noticed that the Commission excluded bodies of water in other markets, but that analysis was not done for the Syracuse Metro. With the numerous bodies of water embedded in the market, this could have an impact in the study and limit more spectrum than the Commission has accounted for in its analysis.

I think given this information, the Commission should do some further examination of the data for the Syracuse Metro. I think at the conclusion of that re-analysis, I respectfully request that the Commission should change its decision to process all translator applications in the Syracuse

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<sup>2</sup> Analysis using a 35 mile radius from the Commission's center coordinates of N 43-2-53 W 76-8-52 and the FM Query tool at <http://transition.fcc.gov/mb/audio/fm.html>

<sup>3</sup> This number could vary depending on how mutually exclusive frozen applications are handled.

metro to allow for viable LPFM applications in the market. If the Commission fails to reverse its decision in the Syracuse market, it will undermine the Local Community Radio Act (LRCA) and the spirit behind the market-based approach in the *Third Further Notice*. Many frozen translators will be granted licenses which will preclude many, if not all viable LPFM allocations in the Syracuse market. As it stands, I do not believe processing the existing translator applications will result in 6 viable LPFM channels as desired by the Commission for a market the size of Syracuse, New York.

### **Translator Application Caps**

As noted in the *Third Further Notice*, the Commission decided to eliminate the 10 application per translator applicant rule. I agree with this decision, and think that 10 was far too limiting for licensees with hundreds of licensees of primary service stations. Limiting it to just 10 would prevent some of these major licensees from being competitive in the translator application process, so I do agree with the elimination of the cap.

However, the Commission should not issue any of the frozen translator licenses until it has crafted rules related to multiple ownership. The Commission has noted many issues that have resulted in the translators that have been frozen. Some of those items are noted in the *Third Further Notice*<sup>4</sup>. However, I feel that the scenarios described in the *Third Further Notice* are not all-inclusive of the issues. I think the suggested overall cap of 50 or 75 might help, but I think that too could be limiting. Take for instance a company like Clear Channel or Cumulus which are the licensees of hundreds of full-service stations. These and other large operators might have more than 50 or 75 *bona fide* service aspirations. Why limit those? Yet, I agree that something should be done to limit the excessive applications by a few applicants the Commission noted in Houston and New York City. Perhaps an overall cap, but a clearly defined waiver system could be devised. The Commission should seek further comment in this area and develop a comprehensive approach to this issue.

### **Multiple Translator Ownership Rules**

Further, and more importantly, the Commission does not seem to go into any detail about multiple ownership issues when it comes to FM translator applications. In the effort to end speculation of translator applications nationwide, little focus is drawn in the *Third Further Notice* to avoiding over speculation of translators in a specific market. I believe the Commission should devise market-based multiple ownership rules for translators.

Going back to the Syracuse, NY brief analysis I have performed, if you review the 22 frozen applications, not a single applicant is a new translator entrant. Those 22 applications are from the same pool of 19 existing translator licensees. Each of the existing licensees have at least one frozen application, and one of them has as many as four. The Commission should craft rules that prohibit the excessive hoarding of translators in a single market. As an example in Syracuse,

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<sup>4</sup> See Third Further Notice at ¶ 32-33.

does Educational Media Foundation, which has three full FM stations that have coverage in the Syracuse market, and already has 1 FM translator in the market, need 4 more translators? Perhaps they feel they do, but those needs should be weighed in conjunction with other translator applications, both existing and new, as well as any LPFM applications. I consider many of the frozen translator applications already on file in the Syracuse metro as excessive. Many of these applications are essentially speculative and hoarding of translator frequencies, rather than providing *bona fide* service needs. These extraneous applications were likely devised to keep other entrants out of the translator market, and to provide a station that is heard on multiple signals in the market another to air their programming on. In fact, one operator in the market once proposed a translator on the same tower as the primary FM station. The Commission ultimately approved the application, even though at the time it was duplicating programming on the same tower at a much lower power level. This is a duplicative and wasteful use of spectrum and the Commission has rarely, if ever, denied applications which are clearly not providing *bona fide* service. That should change in this proceeding.

There should be per-market ownership limits of translators to prevent the issues I have noted in Syracuse, and to avoid the issues the Commission has noted in Houston and New York City. By processing the list as-is without weighing in the new priorities the Commission has established in the *Third Further Notice*, the Commission is undermining the entire translator and LPFM licensing process and the outcome of this proceeding.

As far as what these multiple ownership rules might look like, I think the Commission should solicit comment on this specific topic. There are numerous factors to consider, and I cannot cover all of the possible interests in this filing. However, as a matter to start discussion on this topic, perhaps multiple ownership rules involve a per-market cap of a specific number. Or, a per-market cap of a specific number per station (one station can not have more than 2 translators). Maybe that number mirrors the overall full service rules in 47 CFR 73.3555, whereas in a market of 45 or more stations, no entity could own 5 (or 8) FM translators. In the smallest markets with 14 or fewer, no entity could own 3 (or 5) FM translators. This would allow some flexibility for a licensee. They could take all of their available translators and put them on a few stations that need the fill-in service, or, have one per station if they so desire. However, the number of translators an entity in a market should be limited. An entity should not have blanket authorization to hoard all of the translators in the market. That is anti-competitive. These ideas, combined with the Commission's own thoughts and public comment should evolve into a methodology to prevent the abuses we are seeing in Syracuse, Houston, New York, and likely countless other markets.

### **Establish a Priority for Future LPFM Applications**

I disagree that a future LPFM application should have priority over future FM translator applications that provide fill-in service. My comments on the LPFM service from 1999 and 2000 still stand and have not changed. I do not believe that LPFM licenses should have a priority. Fill-in FM translator service is extremely valuable; especially when cross-service AM to FM translators are considered. A blanket "priority for LPFM" is a bad policy. It should again

be need based. If there are two mutually exclusive applications between an LPFM and a translator, the applicants should be required to submit a showing as to the benefits and *bona fide* services that these licensees would provide. Then, using a system devised by the Commission, it should be decided which application is granted. It process should not always prefer the LPFM. I believe that LPFM and fill-in translators should have priority over non-fill-in translators, unless the non-fill-in applicant can prove they are providing *local* content – not a nationally syndicated service being relayed from a station that is far outside of the local area.

### **Restrictions on the Use of FM Translators to Rebroadcast the Signals of AM Stations**

I believe that AM stations should be allowed to use any translator that has been licensed. The May 1, 2009 date would be too limiting for AM stations to be able to compete and obtain any newly granted FM translators. I think this undermines the service AM stations can provide to the public and, if this rule was still kept, I feel that this would be a disservice to the public. The rule served its purpose to help launch the cross-service translator process, but its usefulness will have expired when this rulemaking is complete.

### **Show Cause Process, and Apply New Rules and Policies to All Future License Grants**

I strongly encourage the Commission to adopt sensible rules in these areas, and apply them to all future licenses granted. The specific need of a translator, requiring *bona fide* service, should be established and weighted when evaluating competing applications. Moreover, in the markets where the Commission has decided to process all frozen applications, I feel that they should only be processed after a filing window for new translators has opened. This filing window should allow new entrants to “show cause” existing, frozen applications that would be mutually exclusive. This “show cause” process would allow new applicants to challenge old, frozen applications that were made on a speculative basis. New applicants would essentially make a case as to why their mutually exclusive translator would provide more local service, or have other merits that outweigh the old frozen application. The applicants of frozen FM translators would then have the ability to respond to the “show cause”, and indicate the *bona fide* need for the proposed frozen translator, and outline the local service the station would provide with said translator.

This “show cause” process and change in procedure would open up more competition for the remaining spectrum, and the Commission could use its newly devised multiple ownership policy, ownership caps, localism priorities, and other criteria identified in the *Third Further Notice* and subsequent decisions to the entire pool of applications – not just future applications. I fear if the Commission only applies this to future applications, in many places, the frozen applications will use up the last remaining translator and LPFM spectrum in many competitive markets. There will be little or no spectrum available to apply these newly crafted rules on.

## Summary

I think the *Third Further Notice* has some very good ideas, although, I believe those ideas should be refined further before any translator or LPFM licenses are granted under the proposed rules. I believe the Commission's analysis of the Syracuse, New York translator and LPFM spectrum is not complete, and I believe if the Commission re-evaluates the market with the information from my comments above, it will find that processing all of the existing translator applications would preclude the benchmark of 6 LPFM channels it desires in the Syracuse market. I respectfully request the Commission reverse its decision for Syracuse and dismiss all frozen translator applications. Further, I request the Commission adopt rules that limit multiple ownership of translator licenses within a market to prevent hoarding, speculation and duplicative service. I request the Commission allow AM stations the flexibility to use any valid translator, and to consider fill-in translator service on an equal footing as LPFM service. Finally, I respectfully request the Commission apply these rules to all future license grants – the newly crafted rules should be applied to the entire pool of applications, frozen and new, and in the markets that the Commission has decided to process frozen translator applications, a new application window should be opened for new entrants to compete and “show cause” mutually exclusive applications that could be construed as hoarding, speculative, or duplicative.

Respectfully Submitted,



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# Exhibit A -- Translators in a 35 mile radius of Syracuse, NY

Sorted by Licensee/Applicant

Call	Freq	Channel	Type	City of License	Licensee/Applicant	
W251AJ	98.1 MHz	251 APP		MELROSE PARK	AUBURN BROADCASTING, INC.	BPFT -20110819AAI
W251AJ	98.1 MHz	251 LIC		MELROSE PARK	AUBURN BROADCASTING, INC.	BMLFT -20070918ACH
W266BE	101.1 MHz	266 LIC		AUBURN	CALVARY CHAPEL OF AUBURN	BLFT -20070418AAP
NEW	92.3 MHz	222 APP		GROTON	CALVARY CHAPEL OF THE FINGER LAKES, INC.	BNPFT -20030317KMG
NEW	96.3 MHz	242 APP		CORTLAND	CALVARY CHAPEL OF THE FINGER LAKES, INC.	BNPFT -20030317KGL
W278AH	103.5 MHz	278 LIC		SYRACUSE, JAMESVILLE	CALVARY CHAPEL OF THE FINGER LAKES, INC.	BLFT -20110428AAM
W214AR	90.7 MHz	214 LIC		OSWEGO	CALVARY CHAPEL OF TWIN FALLS, INC.	BMLFT -20081231AAM
NEW	98.5 MHz	253 APP		FULTON	CAYUGA COMMUNITY COLLEGE	BNPFT -20030311AOX
W249CF	97.7 MHz	249 LIC		FULTON	CAYUGA COMMUNITY COLLEGE	BLFT -20110727AEF
W240AH	95.9 MHz	240 LIC		CORTLAND	CORTLAND-HOMER CHRISTIAN RADIO ASSOCIATION	BLFT -19840917MU
W237AY	95.3 MHz	237 LIC		DEWITT	GRAM COMMUNICATIONS, LLC	BLFT -20000619AES
W251AK	98.1 MHz	251 LIC		NEDROW/LAFAYETTE	GRAM COMMUNICATIONS, LLC	BLFT -20090604ABE
W268AE	101.5 MHz	268 LIC		WAMPSVILLE	GRAM COMMUNICATIONS, LLC	BLFT -19991001ACE
NEW	92.5 MHz	223 APP		ONEIDA	EDUCATIONAL MEDIA FOUNDATION	BNPFT -20030313AXE
NEW	92.5 MHz	223 APP		ONEIDA	EDUCATIONAL MEDIA FOUNDATION	BNPFT -20030807AGS
NEW	92.7 MHz	224 APP		SYRACUSE	EDUCATIONAL MEDIA FOUNDATION	BNPFT -20030317BQA
NEW	93.5 MHz	228 APP		EAST SYRACUSE	EDUCATIONAL MEDIA FOUNDATION	BNPFT -20030314ABC
NEW	103.3 MHz	277 APP		BALDWINVILLE	EDUCATIONAL MEDIA FOUNDATION	BNPFT -20030317BPB
W267AL	101.3 MHz	267 LIC		SYRACUSE	EDUCATIONAL MEDIA FOUNDATION	BMLFT -20101122AJU
NEW	92.7 MHz	224 APP		SYRACUSE	FAMILY LIFE MINISTRIES, INC.	BNPFT -20030311AUS
NEW	94.1 MHz	231 APP		CLAY	FAMILY LIFE MINISTRIES, INC.	BNPFT -20030311AUQ
NEW	98.7 MHz	254 APP		FULTON	FAMILY LIFE MINISTRIES, INC.	BLFT -20001130ADH
W207BH	89.3 MHz	207 LIC		BALDWINVILLE	FAMILY LIFE MINISTRIES, INC.	BLFT -20070131AJT
W222AH	92.3 MHz	222 LIC		CORTLAND	FAMILY LIFE MINISTRIES, INC.	BLFT -20050418AAZ
W231BK	94.1 MHz	231 LIC		OSWEGO	FAMILY LIFE MINISTRIES, INC.	BLFT -20091112AFX
W252AC	98.3 MHz	252 LIC		FAIRMOUNT	FOXFUR COMMUNICATIONS, LLC	BNPFT -20030317KSW
NEW	93.5 MHz	228 APP		CHITTENANGO	GALAXY COMMUNICATIONS, L.P.	BNPFT -20030317KTU
NEW	98.7 MHz	254 APP		FULTON	GALAXY COMMUNICATIONS, L.P.	BLFT -20070111ABD
W249BC	97.7 MHz	249 LIC		MATTYDALE	GALAXY SYRACUSE LICENSEE LLC	BLFT -20001214AJV
W256AC	99.1 MHz	256 LIC		SOLVAY	GALAXY SYRACUSE LICENSEE LLC	BLFT -20100323ADK
W261AC	100.1 MHz	261 LIC		OSWEGO	GALAXY SYRACUSE LICENSEE LLC	BNPFT -20030314BSS
NEW	101.1 MHz	266 APP		OSWEGO	M & D TRANSLATOR, LLC	BLFT -20070501ADS
W291BU	106.1 MHz	291 LIC		FULTON	M & D TRANSLATOR, LLC	BNPFT -20030313BNC
NEW	93.9 MHz	230 APP		ELMWOOD	PATHWAY COMMUNITY RADIO, INC.	BNPFT -20030317ECL
NEW	93.9 MHz	230 APP		ELMWOOD	PATHWAY COMMUNICATIONS CORP.	BLFT -20000720ABL
W243AB	96.5 MHz	243 LIC		WESTVALE	RENARD COMMUNICATIONS CORP.	BNPFT -20030310AZI
NEW	96.3 MHz	242 APP		CORTLANDVILLE	STATE UNIVERSITY OF NEW YORK	BNPFT -20030310BAR
NEW	101.1 MHz	266 APP		ITHACA	STATE UNIVERSITY OF NEW YORK	BNPFT -20030317LWP
NEW	92.5 MHz	223 APP		LYNDON	SYRACUSE COMMUNITY RADIO, INC.	BNPFT -20030317LXO
NEW	93.9 MHz	230 APP		HINSDALE	SYRACUSE COMMUNITY RADIO, INC.	BNPFT -20030312ARC
NEW	103.3 MHz	277 APP		DURHAMVILLE	WOLF RADIO, INC.	
<b>Totals</b>	<b>Licensed FX</b>	<b>19</b>				
	<b>FX Applications</b>	<b>22</b>				
	<b>Total</b>	<b>41</b>				